IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CONTEMPT PETITION NO.77 OF 2007

In

WRIT PETITION NO.6097 OF 2004

Rajendra Bapusaheb Patravali & Ors. : Petitioners

V/s.

Sou. Sumitra Vinod Rahatekar & Ors. : Respondents

(No.1 is contemnor)

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Mr.S.V.Sadavarte for the petitioners.

Mr.Nitin Jamdar for respondent no.1.

Mr.V.T.Tulpule with Mr.Santosh Pawar for resp.nos.3 & 4.

Mr.D.A.Patil, Asstt. Govt. Pleader for respondent no.5.

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**CORAM : S.A.BOBDE, J.**

DATE : SEPTEMBER 05, 2007.

**P.C**.

1. By this Contempt Petition, the petitioners, who are original defendant nos.1 to 5, have approached this Court for taking action against the officers of Solapur Municipal Corporation for wilful and deliberate disobedience of the order of this Court dated 20.4.2006 passed in Writ Petition no.6097 of 2004. According to the petitioners, the respondent-Municipal Corporation was

bound to carry out the demarcation after notice to the parties within two weeks of such notice. Further, their contention is that though they have submitted an application for the purpose of demarcation, the Municipal Corporation has not acted on the said application and, therefore, the Officers of the Corporation are guilty of contempt.

2. Mr.Jamdar, the learned counsel for the respondent no.1, points out that the order of the Court dated 20.4.2006 was intended to direct the parties i.e. the petitioners and the respondent nos.3 & 4 therein to make an application in terms of the Consent Decree dated 20.3.2002. The Consent Decree dated 20.3.2002 undisputedly contains a direction that the application will be made by the parties jointly. According to Mr.Jamdar, therefore, since there is no joint application, according to the Consent Decree, the Corporation has not processed the application. Before this Court, it was contended by Mr.Sadavarte, the learned counsel for the petitioners, that they have not been able to obtain joint signatures because, according to the petitioners, the application contemplated by this Court can be one for demarcation only and not an application for division and demarcation which the respondent nos.3 & 4 herein are insisting upon. Mr.Tulpule, the learned counsel for the

respondent nos.3 and 4, submits that his clients have signed the application for demarcation and division. Since there is no valid and effective division in force at the present moment, it is clear that this controversy raised by the learned counsel for the petitioners and the respondents nos.3 & 4, viz., whether the property has already been divided or not cannot be the subject-matter of this Contempt Petition which only makes a grievance about the non-compliance of the order of this Court.

3. In the circumstances, there is no wilful disobedience of the order of this Court by the Corporation and its officials.

4. In the circumstances, the parties are left free to agitate their dispute before the appropriate forum in regard to the division and demarcation of the property, as may be advised, in accordance with law. In any case, the respondent-Corporation and its officers cannot be held responsible for any wilful disobedience of any order of this Court.

5. In the result, the notice is hereby discharged. The Contempt Petition stands disposed of.

S.A. BOBDE, J.